As a result of a personal misunderstanding and a general lack of communication, I mistakenly condened the printing of an essay regarding women and Judaism in the April 1995 issue of Hamevaser. The essay was, both in tone and in content, inappropriate for the pages of Hamevaser. In addition, although unintended, many statements in the essay either offended some of our readers or appeared to mock Torah concepts. Hamevaser apologizes for all the aforementioned as well as any comments in any of our issues that may have slighted our readers.

Present circumstances compel me to inform our readership of the following, which I hoped had been self-evident: The editorial board of Hamevaser does not endorse, nor has ever endorsed, any viewpoint that limits the perennial relevance of any of the moral or social philosophies upon which Halakha is based.
"And you shall teach your children"

by Rebecca Rosen

Assimilation has become a major problem facing Jews today. Even within the world of yeshiva day school, there are great divergences in the views of Jewish education, educators' treatment of these goals, as well as the expectations of students, may shed light on the issue.

Two of the most important goals of Jewish education are the inculcation of Jewish ideals and a sense of Jewish identity. Occasionally, elementary school teachers try to engender both faith as well as knowledge of Judaism in their students. However, at times these goals can conflict. When a child asks a philosophically challenging question, how does the teacher respond? The teacher must decide what is most important to her: to inform her students, or to instill faith within them. She has three options. She could provide a stilling yet ambiguous answer, give a simplified version of a truthful answer, or supply a complex answer to the issue. The teacher may choose to pacify the child's fears with an inaccurate answer for a number of reasons. Perhaps the teacher has no answer; she too finds the issue challenging. Maybe the teacher feels it unfair to relate a complex answer to a child unable to understand it sufficiently, but does not feel capable of simplifying things to the point that vital pieces of truth remain intact. Conceivably, the teacher may put more emphasis on faith than on information, preferring that the child find peace with the issue for now, and confront the issue when more mature both mentally and emotionally. Perhaps the child has asked a question which has no known answer.

Alternatively, the teacher may be able to find a simplified answer which will beg elaboration at a later date, but which contains enough truth and accuracy in order to maintain both her own integrity as well as that of the religion.

However, the teacher might decide that the student is asking a serious question, deserving an answer which fully addresses the issue. She recognizes that she became a teacher in order to enlighten her students. She is not there to mislead, but to educate, elaborate, and explain. She views this as an opportunity to deal with some of the intricacies of the Jewish religion and takes advantage of it.

In all three of these responses, the teacher may ideally understand her roles of imparting faith and knowledge as equally important. However, when faced with a dilemma of this kind, the teacher must evaluate which one is more important for her to impart upon her students at that stage in their lives.

However, each one of these options has potential problems. How can a teacher deliberately misinform a student while maintaining her own integrity, not to mention that of the subject at hand? Judaism is such a rich religion, does it not contain within it truthful answers suitable for children? Even more frightening, if there are no answers to some questions, is a teacher's only recourse to mislead her pupils? Is the inculcation of faith based upon falsehoods the kind of foundation upon which observance should be based? Furthermore, what will happen when the student discovers that he was misled by his teacher?

On the other hand, how can a teacher present issues to a student incapable of understanding them sufficiently? Perhaps the teacher is reading into the student's question, not what he intends, but the issues with which she herself is dealing. Does the teacher have the right to read into a simple question all the knowledge and complexities which could only come with age? Even if the child comprehends many of the implications of his doubts, if the child is not capable of dealing with such issues, his faith may be shaken. It is candidness for the sake of knowledge worth such a price? But how does a teacher find the happy medium, the perfectly simple answer which contains truth within?

Aside from these serious questions, there are further problems which arise from the decision to either misinform or provide a simplistic answer to a student. Either of these types of answers must be modified at a later date. The danger is that often they aren't. Frequently, high school and college teachers do not address the same issues as those encountered in elementary school. Thus the child grows into adulthood with the unenlightened or inaccurate answers they received in elementary school. This is an especially poignant case when religion itself is an issue. The teacher has taught, and occasionally, the adult recognizes that she becarrie a teacher in high school.

Worse still, when the answer is revised in adulthood, the person may lose respect for the teacher, for other things the teacher has taught, and sometimes, for the religion itself.

How do teachers answer their students' questions when the students may not be able to handle the complex solutions, and yet prevent them from regarding religion as simplistic and worthless later on in life?

Perhaps elementary school is not the source of adult repudiation of Judaism. Should it be the elementary school teacher's responsibility to add the longterm effects of her answers on her students to her pedagogic concerns? If so, she, of course, has a responsibility to the student sitting before her, to teach and instruct him according to his capacity, beyond that, what are her obligations? Aaron Robinson writes in a Ten Da'at article entitled "Psychological Insights and Human: A Program for Understanding and Teaching," that "we must...teach our students the simple immature approaches of our youth must give way, in a never-ending evolution, to deeper levels of intellectual complexities." Perhaps, the resolution lies beyond the elementary school teacher, to high school and, ultimately, to the students themselves.

One solution may be for important religious issues to be addressed in high school when the student is more equipped to deal with them. Continue to teach Chumash, Navi, Gemara, and Halakha, but provide additional classes on Jewish philosophy and the important issues facing Jews today. Or perhaps within other classes, a teacher may make a "planned tangent," as Ralph Spiegelman phrases it in a Ten Da'at article entitled "The Truth of Torah: The Role of Text Transmission" in another context, to allow for the discussion of issues with which students are grappling.

An additional solution is for the mature student to reevaluate his conceptions of Torah and education. Firstly, he must recognize that not every problem has been resolved. Judaism is a faith, with all its implications.

Secondly, an adult has a responsibility as to the development and direction of his own education. He cannot just sit back and expect others to supply wisdom, as he was able to years before, he must go out and learn on his own. Thus, when an adult looks at Judaism as simplistic, is it the elementary or high school teacher's fault? Many adults have the clear expectation that the answers given them in elementary school paint a complete picture of religion. Does an adult look at the mathematics learned in first grade as math in its full sense? Of course not, the adult recognizes that first grade math is the first level upon which higher stages of math are built. Rather than rejecting Judaism due to dissatisfaction with rudimentary answers received at a young age, a person should acknowledge that Judaism is multifaceted, and should search for further answers within that pool of knowledge.

Although high school teachers may work on troubling philosophical issues with their students, and adults may reevaluate their perspective of school and Torah, how may teachers answer the elementary school student's philosophical question in the best way?

There is no easy answer to this question. Of course, it depends upon the capabilities of the students, that of the teacher, and the teacher's views of her role in the classroom. This is an extremely complex issue, and as mentioned above, none of the options are completely satisfying. Thus, the adult who discovers that his teacher misled him must recognize the complexities of the issue and the hard balancing act which the teacher is called upon to perform in order to instill faith as well as knowledge into her students. He must accept responsibility for his continuing Jewish education and endeavor to find the answers to his questions. He must also recognize that there are some philosophical dilemmas which have no answers.

Just as an adult commits himself to learning the ins and outs of a body of knowledge for a profession, he should explore the body of truth within Torah. Does the elementary school teacher have the obligation to meet the child's spiritual needs as he reaches maturity? That is a question in need of much reflection. Nonetheless, whatever route the teachers of the past have taken, each adult has an obligation to himself to delve into what he has already learned and what he has yet to learn in search of the truth. Continuing the "improvement of one's own knowledge and faith" is the adult's responsibility. The torch has been passed from teacher to student; Jewish education is in your hands, do with it what you will.
Yom Tov Strolls Through Pardes

The Vilna Gaon On The Moadim

by Chaim Eisenstein

The breadth of R. Eliehu of Vilna's knowledge in all areas of Halakha and thought reigned even an elementary study of his works in any one given subject both difficult and exciting. In researching the Gaon's approach to the Moadim in their Biblical context, one cannot overlook his treatment of the Moadim as his commentary on the Shulkhan Arukh. It is in this interdisciplinary style that his explanations of certain Biblical passages, the Gaon will be influenced by basic Kabbalistic theorems. It is this interdisciplinary style that makes the Gaon's work so complex but at the same time quite unique.

We were encouraged to view the Gaon's work in this manner when we questioned his emphasis on Kabbalat. The significance attached to this study seems inconsistent with the emphasis his student, R. Hayyim Volozhiner, in his monumental work, Nebi'eh ha-Hayyim, places on the normative study of Halakha. If the reading of other religious material (e.g. maaseh kabbalat) is inferior to Halakha and Tanakh in the hierarchy of mitzvot almah Torah and borders dangerously on the sin of harsh Torah, how could the Gaon (and R. Hayyim as well) spend so much of their time learning Kabbalat?

It can be suggested that the Gaon emphasized a methodology of learning which called for all concepts to be considered and scrutinized from a wide perspective. The use of intrabiblical exegesis seems narrow when compared to the Gaon's consistent use of Pardes in his study of both Torah she-bi-kehetan and Torah she-bi-khila'at. Hence, if the Gaon utilized all elements of Pardes in the study of Halakha, he did not view his study of Kabbalat in a lonely vacuum. To the Gaon, Kabbalat was the study of Halakha or Tanakh from the perspective of Soul.

Although this approach seems very similar to the often quoted Chazal of shiv'im panim la-Torah, we think the Gaon's intensive use of Pardes in all areas of Torah illustrates that his understanding of this talmudic dictum is more literal than the common explanation. Shiv'im panim can be understood as a validation of many approaches in the study of any single issue. This does not assume that there is any relationship between the differing approaches. We will try to show that within the indubitably precise world of the Gaon, these differing approaches unite.

Pesach: Prohibition of Leaven

The prohibition of owning leaven on Pesach is mentioned twice in Exodus, once in the pesach le-dorim segment of ch. 12, and again in ch. 13 in the section of bi'ah le'avos. The gemara in Pesach 5b notes the repetition of this prohibition and explicates that the word in ch. 13, "yere'eh", seeing, would not denote the prohibition of hiding one's own leaven in his property. The language in ch. 12 "ye-mazet", found in your

attribute any outside force to God's honor or being... the praise (i.e. the Haggadah) is not hung upon Moshe but on God alone.

In the same passage, the Gaon writes in his pronouns-laced style, "He (i.e. God) did not command him (i.e. Moshe) or send him to do it (i.e. the korban pesach) during the redemption; instead the Israelites together, did God's command with the pesach, matza and maror." On a practical level, the korban pesach for each Jew seems superfluous. Essentially, Moshe could have slaughtered a sheep, spread the blood on every Jewish doorpost, and have eaten the matza and maror in front of Pharaoh. Thus, the plague of the firstborn was different than the other plagues for two reasons. It emphasized the direct providence of God and it required the involvement of the Jews as a national unit to emphasize this providence and thereby maximize Moshe's role.

The second of these two principles might explain the prohibition of having another Jew's leaven in one's possession even when not assuming the responsibility of custody. Since Pesach represents the birth of a nation, "lo yere'eh lechah" might not refer to the individual alone but rather to the nation as a whole. Therefore, when the Gaon writes that the Jews performed the mitzvot together as a whole, this may refer to fulfilling the mitzvot of assuming that the entire union of ami yisroel was not in possession of leaven. In this manner as well, the Jews observed the commandments as one unit, symbolizing their birth as a nation.

Lekhem Oni

Since the Gaon views Pardes in a tightly woven manner, we suggested above that Halakha and peschat are determined with the aid of Kabbalistic ideas. In the case of lehem oni, the Gaon connects the elements of derashah with soul. The gemara (Pesachim 11b) quotes three opinions to explain the enigmatic passage in Deuteronomy 16 which refers to matza as lehem oni. Schneur says that the word "oni" refers to the word "on" and the passage refers to matza as the bread which encourages discussion about the exodus. Another derasha contends that oni refers to a poor person. This opinion points out that just as a poor person eats only a piece of bread, so too on Pesach we only eat from a piece of matza. A third opinion says that the written meaning teaches us that the process of baking must be done in a brisk manner, the same way a poor person would bake.

At the conclusion of his commentary on the Haggadah, the Gaon quotes four opinions. The first two are based on the opinion in our text that lehem oni refers to a piece of matza. One opinion maintains that lechem oni is coming to exclude cake. The other quotes the prohibition of matzot lehem (matza made with wine or oil). The remaining opinions are similar to the other two mentioned in the gemara.

To explain these four derashot, the Gaon introduces the four properties inherent in every object: chemor, tzara, tachtit and po'el. He proceeds to demonstrate that each derasha corresponds to a different property represented in this Kabbalistic hierarchy. The exclusion of wine and oil refers to the chemor. The exclusion of a cake-like substance refers to the tzara of the matza. The po'el of the expedient method required to be used in the baking process. Finally, the tachtit is to discuss the exodus over the matza.

Sukkos: Ananei ha-Kaved and Suka

In his ha'ur on the Shulkhan Arukh (OC 725), the Gaon discusses the gemara in Sukka 11b which mentions

Continued on page 8
Kiddush Hashem ba-Goyyim Ta'amim?

by Emily J. Shapiro

The gemara in Sanhedrin includes various discussions on the status of Bayn Noach and their seven mitzvos. One specific issue is addressed on 74b:

"B'nai miitzvot me-Rav Ami, benet noach mitzvot of Kiddush ha-Shem..."

The question is raised whether or not seven Noach is obligated in martydom for their respective mitzvos.

The gemara concludes:

"Amam Abaye, ta shema: zera ve-choi ha-mitzvos benet noach, ve-im ha-tamne havini Amur'Rei Rava: inda ve-choi avzrichu."

The argument here seems clear. Abaye is of the opinion that it is impossible to obligate benet Noach in Kiddush ha-Shem since our mesoros delineates only seven Noachid Laws. Kiddush ha-Shem, according to Abaye, is to be considered a mitzvo in its own right and therefore in no way can it be required in addition to the seven dictated laws. However, he notes that Kiddush ha-Shem was not to be viewed as a distinct obligation, but rather as a component or detail of the individual mitzvos themselves ("ve-choi avzrichu").

Consequently, according to Rava, the obligation of yehareg ve-el yarav would be incumbent upon the non-Jew. The gemara concludes by citing an example from Melakhim II in which Neaman, the servant of the king of Aram, is granted special allowance by Eliasha to participate in the worship of avoda zara. Although this anecdote seems to support the opinion of Abaye, the gemara concludes, "ha-be-farhesya, ha-be-tzin'a."

The example is rejected as a full proof because Neaman was only permitted to be "ya avor ve al yarav" in this specific case since the act was done "be-tzin'a" in private. However, a safek remains in reference to non-Noach's obligation to or exemption from doing "al Kiddush ha-Shem ha-be-farhesya." It is unclear what conclusion, if any, is to be derived from this sugya.

Tosafot on the page seems to view this discussion as a commentary on the nature and essence of the mitzvos. This machaloket concerns the interpretation and application of the Pasuk - "va-chay bahem ha-be-tzin'a."

and the subsequent dersha of Chazal - "va-chay bahem - ve-choi ha-adam va-chay bahem."

There are two fundamentally different insights into "va-chay bahem." The first suggests that the mitzvos were initially given to be fulfilled under all conditions and circumstances. In their pristine state, the mitzvos require mesoros refrains to an unlimited extent. However, the phrase "va-chay bahem" is brought only to make a special exception for Jews in the case of death. According to this interpretation, non-Jews, who are not included in either the passuk or its dersha, would therefore be obligated to mesoros refrains under all circumstances and conditions - including those with fatal consequences.

The second interpretation of "va-chay bahem" rejects this definition of the mitzvos. Rather, the mitzvos never included any obligation to die in order to fulfill them. "va-chay bahem" is not the exception, but the rule. It was only necessary for Chazal to comment here in order to "outweigh" a hekesh made elsewhere in Tractate Sanhedrin which stated that one is sometimes obligated to kill another who is on the verge of death. "va-chay bahem" simply comes to clarify that in essence the mitzvos do not obligate anyone to literally sacrifice his life. Since neither the hekesh or the dersha apply to benet noach, they are obviously not required to sacrifice themselves in such a way.

This machaloket between Abaye and Rava is later reflected in the writings of Rishonim. Rambam in Hilchos Kiddush ha-Shem 10:2 clearly states:

"Ben noach s'horei omer be-vor in hay mitzvot - matar ba-ha-tzin'a - she-em mora mitzvos ha-Kiddush ha-Shem."

Apparently, Rambam believes that the maksum of the Gemara followed Abaye's opinion.

However, Ramban in Mishnayos HaShemos writes, "avodah Kiddush ha-Shem be-farhesya, she-ba-davar ha-avtik ba-chol ha-mitzvot - mitzvot." Ramban interprets the last line of the Gemara as a final musama. Benet noach are not obligated in Kiddush ha-Shem in privy, but are fully obligated in public.

According to the "Chenida li-Shimro," this entire machaloket must be viewed in conjunction with another machakor found in Tractate Avoda Zara 54a. There, Rava Zeria concludes that any avos done by one -- under duress -- is not considered an action at all. However, Rava states that an avos, even when done be-tzin'a, is always considered a sinful act. In reference to our gemara in Sanhedrin, it seems that Abaye follows the opinion of Rav Zeria: "'ha-be-tzin'a ear me-zavha avera." When one is forced to sin, it is as if there is no actual sin whatsoever.

Therefore, the only thing which obligates an individual to refrain from such an act is the separate mitzvos of Kiddush ha-Shem. Since this separate mitzvo is not included in the list of Noachid laws, it cannot be required of a ben noach. Likewise, Rambam in Hilchos Issuur ve-Mishab also rules like Rav Zeria and therefore he must cite extrinsic reasons to explain why Rabi Yireinu must die at Kiddush ha-Shem, which is in no way applicable to benet noach.

On the other hand, Rava holds that even in cases of ones, the sinful act still exists legally. Therefore, with the exception of those mitzvos which are included in "va-chay bahem," a Jew's obligation to the al Kiddush ha-Shem is not a distinct mitzvo in and of itself, but rather it is an intrinsic aspect of the individual mitzvo which becomes. This quality in mitzvos is equally applicable to the seven mitzvos of benet noach and then, so is the obligation of Kiddush ha-Shem. Again, the Ramban would concur with this understanding of both the essence of mitzvot and Kiddush ha-Shem.

It is this last point, whether or not an avos be-tzin'a achieves the status of an action at all, which reveals the true distinction between the ben noach and the ben izrool. Ramban states that neither a Jew nor a non-Jew is held accountable for sins committed under duress. Despite this principle, Ramban rules that a Jew must die rather than partake in any one of the three cardinal sins -- avoda zara, she-ba-davar ha-avtik, or yehareg ve-el yarav. Even in private or public. However, Ramban completely exempts the non-Jew from any such obligation. The paradox is obvious. If in the end, there is no actual mazaves anyway, why would the Torah ever obligate a ben noach to be moser nefesh under such circumstances? Furthermore, why does Ramban make such a sharp distinction between the commitment to show mitzvot benet noach and to yehareg ve-el yarav?" Maharafl in the fourth chapter of

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Holier Than Thou: An Investigation Into The Modern Day Phenomenon of Chumrot

by Yaakov Weinstein

Phenomenon 1: Modern Chumrot

Now that the arena is set, and he battle is ready to begin, who must defend his view? The mishna in Yadayim (4:3) tells us, "alecho ve aya she ata machmir," upon you is the burden of proof since you are the more stringent. This concept is not restricted to theory alone, it is implemented in deciding practical Halakha, by the halakhot according to Chacham Tzvi (eshvah 116, and, according to Tashbetz 1:1-2:141), also by devosays, such as forced gitten and shevur ot. Tashbetz insists that one cannot be machmir by something not mentioned in the gemara unless he brings substantial proof. "Just to be on the safe side," does not suffice, there must be sound reasoning behind it.

R' Avahu defines, at the end of parshat Shemini, goes one step further. He declares that if a Halakhic ambiguity should arise and there exists the possibility of elucidating the situation, one cannot be machmir until such action is taken. Just as one may not be lenient until a situation is clarified, one may not be machmir, as well, without taking the proper steps to resolve the issue. "Le-havdil ben ha amot u ven ha-adur," (Vayikra 11:47) teaches us that we cannot leave Halakha in a nebulous state, even if we want to be machmir because we are not sure. We must clarify the Halakha as much as possible.

Why be machmir? R' Moshe Chayyim Luzatto in chapter 14 of the Meilat Yesharim (Sha'ar ha-Persiios) describes the behavior of one who has reached a level of persiios, separation. Such a person takes only what he needs from olam ha-reze, limiting his activities that may lead him to pervert, though the actions themselves are allowed, and is follows stricter shituf (their reasoning makes sense (ta'amim mir' e). In other words, chumrot are part of every individual's growth. When a person has reached a certain level, he or she may feel the need to accept upon himself or herself an aspect of lifmit me shmarot ha-din.

A similar approach is championed by R. Aharon Lichtenstein, explaining that Judaism was never meant to be a monotheistic religion, binding everyone to the same standards; rather there must be room for personal enrichment. A chumra you accept, must be attuned to you. It must reflect your personal level, your religious goals, and your spiritual creativity. Accepting chumrot in an indiscriminate manner does not add to one's spiritual growth. A chumra accepted this way, does not reflect that one realizes his spiritual level, wherein lies his strengths and where he needs improvement.

Both of these approaches relate to chumrot as personal choices, decisions obviously not to be taken lightly. One must think carefully before making such a decision, rather than blindly follow the masses because it is the "in" thing to do.

R. Moshe Sternbach, in his masadim u-se'manim, views chumrot from an entirely different perspective. Throughout the book he regards chumrot as a hobby of midrash mitzvot, a way of beautifying our actions (see D. Herozowitz, Tradition, Fall 1982); "ze kei ve-amechu," similar to buying a nicer esrog. By employing this idea, he explains the mishag of R. Chayyim Brisker to take more than one esrog on Succot, even though one is possibly grated, in order to fulfill the mitzva with as beautiful an esrog as possible.

Siftech advocates a radically different approach (see Haga'ot ve-Hanagot by H.H. Ben Sason : 19-21). At the time of mutan Torah, only de-oravot were prohibited. As time passed, the spirituality of the Jew deteriorated and the version of the mishakh (serpent) spread. In order to counter this, more issurim are needed to be added from the ma'ayan now ma'ol, the flowing well of Torah. According to this last approach, the issurim and chumrot are meant to serve the same purpose as the ones actually written in the Torah, namely, to stop the spread of the serpent's poison. This view raises the significance of our question beyond the realm of mere chumrot, extending the question to the new restrictions of our time.

The numerous chumrot affecting every aspect of our Jewish observance can be broken down into two distinct categories. The first category includes obligating oneself to things that are unquestionably not required, and refining from things that are undoubtedly permissible. This includes eating foods inside a succa even if one cannot be knave shi'a succa on them (Shulcho 28b), women fulfilling mitzvor ase she ha-zeman gerama, fasting, and taking a vow to become a nazir. While there seems to be nothing wrong with doing "extra," we will see that, Halakhically, the issue is not so simple.

Some of the most popular chumrot fall into the second category of chumra, trying to be yotzer as many shi'ot as possible. This idea has been extremely prevalent among the Briskers (Nefesh ha-Rav : 20-21). They cite Kohelet Rabba, on the pasuk (7:18), "Ki yir' e elokim yitzei et kalom," [for he who fears the Lord will discharge of them all]. The commentators explain this as a reference to R. Avahu's gerera (Rosh Hashana 3b) that the shofar on Rosh Hashana, which is to sound like our crying, be blown as a tera, shavirim, and shavirin tera-teru'a, because he did not know which type of cry we are supposed to convey; a short shrieking cry, or a longer sob. R. Avahu believed that when we have a doubt as to the proper way to perform a mitzva, we should try to cover all the bases. Nevertheless, this idea is inherently problematic. How far can we extend this? Should we light a second menorah on Channukah and start with eight candles the first night in order to yotzer the shita of Bet Shammay (Shabbat 21b)? Perhaps we should eat four xe'ulot on Shabbat in order to follow the view of R. Chidakah? Besides, do we have the right to disregard the accepted Halakha?

Netzev in the introduction to the Ha'anek Shelema (18) discusses two types of rejected shituf. All opinions in a machaloket may with an internal light, an Or Torah, however, yet not all shine with equal radiance. One will be accepted as Halakha and will flame into a raging fire. Some rejected opinions, such as the opinion of Roel ha-Edom that women from Aschkenaz and Moar are unacceptable as converts, will lose their radiance altogether, and their sun, their Ohr Torah, shall set. Many rejected
opinions, though not accepted as Halakha, retain their Torah, not only to be relied upon be-shita'at ha-dechak, but also to illumine other areas of Halakha, and, perhaps, to explain the thought process behind the opinion we do accept. As an example, the Netziv quotes the machalokets at the beginning of Berakhot over the last time to recite Shema in the evening. R. Eliyahu believes that we can recite Shema until the end of the first watch, because that is when people go to sleep. Although rejected, R. Eliyahu's opinion establishes the end of the first watch as a significant Halakhic time frame. Moreover, the gemara entertains the idea that the Chachamim, who say Shema can be recited until midnight, actually agree with the reasoning of R. Eliyahu, that Shema must be recited when people are going to sleep, and merely disagree as to what is the exact time that people retire!

Drawing on this idea, R. Michael Rosensweig (see Eruv 14b Eliahu Dvir; Eliyahu Chayyun; Halakhic Pluralism and Theories of Controversy) determined which shitas one may accept, though they extend beyond the pesuk halakha. A shita that accentuates a certain facet of a pasuk, without contradicting the accepted view, can be followed. As an example of this phenomenon, R. Rosensweig turned to the explanation of R. Hai Gaon in regard to being machmir for all variations of terum'a, when we blow shofar on Rosh Hashana. R. Hai Gaon states that, actually, we would be saiceri with any of the sounds of the blowing of the te'um'a. However, since each sound represents a different type of weeping, blowing all of them adds an extra dimension to the sum terum'a aspect of Rosh Hashana.

As we have seen, accepting a chumra upon oneself is not as simple as it may seem. Beyond the fact that a chumra should be a personal choice, attended to one's own spiritual needs, there are certain rules that must guide our choice of such a chumra.

From "lo tiggadela," (Devarim 14:1) literally do not make tears in your skin, the gemara (Yevamot 13b-14a) learns that you should not split into many groups (agudot uagudot) when performing an action of religious significance. Rashia explains that by doing so, it appears as if bnei yisrael are following two different Torahs. Rostia (Orach Chayyun 493:3) encodes this pasuk while explaining that there should be only one minhag of the time when the mourning period of theomer is observed in each city. When one is machmir, and thereby creates a variance in practice, it causes an appearance of two Torahs; he violates the Torah prohibition of "lo tiggadela."

Rambam (hilkhot ukom 12:14) offers another reason for this prohibition, namely to minimize machalokets among bnei yisrael. This somewhat overlooked idea presents itself in perek makom sho-nahogen (Pesachim 57b-52a). The gemara discusses a situation where someone who has a mis asc not to work on erev Pesach travels to a place where people do work on erev Pesach and vice-versa. The gemara says that in the former case one has permission to do work, even though everyone around him is working, because people will assume that he couldn't find any work to do, not that he purposely refrained from working. By implication, if not for the reason that people will think he has no work to do, he would be required to break his own minhag and follow the minhag of the town, though he is mekil, as not to cause machalokets! In fact the Vna Gaon postulates (Orach Chayyun 468) that in all things, that are not div-naseir, a person must follow the minhag ha-makom, in order to avoid strife! Perhaps this idea would apply to the direction one should face during shemoneh esrei if the awn kedosh is not facing erotic spiritual.

Do not be a fool! The gemara in Rosh Hashana (14b) quotes a berara, "Really the Halakha is like Bet Hillel and one who wants to follow Bet Shammai. One who follows the leniencies of Bet Hillel and the leniencies of Bet Shammai is a mazlokal, and one who follows the stringencies of Bet Hillel and the stringencies of Bet Shammai in regard to this pasuk (Kohelet 2:14), 'And the fool walks in darkness,' Rashia explains that this refers to a case where the machaloket will yield a kalata in one case and a chumra by another. For example, the Mishna in Ohalot (2:13) relates a machaloket regarding how many vertebrae must be missing from the spine in order that it will not be merium be-olah. Bet Shammai says two, while Bet Hillel requires only one. Clearly Bet Shammai is machmir. However, this same machaloket will apply to the amount of vertebrae necessary to make an animal a people, and thus unfit to eat. In this context, Bet Shammai says, who allows just the missing vertebrae, advocates the more lenient view. In such a situation, says Rashi, one who is machmir both by ramia and by bereilu in a food because the chumra are contradictory. But with two unrelated arguments, one may be mekil for either the opinion of Bet Shammai or for that of Bet Hillel the same would hold true for any two people agreeing in more than one case. Tosafos (Rosh Hashana 14b) adds that even if a person aware of the pesuk halakha and wants to be machmir nonetheless, by is considered a fool because he is contradicting himself. This berara is also cited in Eruvin (6b, and Chullin 14b). In both of these instances the gemara deals with a case where according to each party separately there is no reason to act and only by overlapping two arguments and being machmir for both arguments would a problem develop. In such a case one who is machmir is considered a fool because according to each party separately there is absolutely no problem.

The Yerushalmi in Berakhot (2:13) makes an astounding assertion. Anyone not obligated to do something who does it anyway is called a havdot. This gemara is not "just" aggadah. Rama refers to it (Orach Chayyun 639:7) in regard to eating in a suka while it is raining. Also see Tosafot ad loc. that one cannot eat in a suka in the rain because it's not lecha be'en tahud. As does Magen Avraham (Orach Chayyun 324:2) in regards to one who is not required to leave during the seder and 472:2 in regard to adding extra lines onto behaalot, and Eruv ha-shavuot (hukkat bet 127b). This makes the rule also when one does not do something. This gemara declares all actions beyond pure Halakha unnecessary.

Continued on page 2.
only obliged in "daven" and not "kedusha." Thus, benet noach is not held accountable for tuma as explained in Nedarim 10a: 'Kol she-yesh le-taharah, she-yesh le-tumah.' Tuma is only existent within something that has already acquired a certain level of 'kedusha'—benet noach, who have never attained such a status of kedusha, are consequently not obligated in preventing tuma. The benet noach's exemption from kedusha ha-shem reflects another important distinction between his lifestyle and character and that of a benet yaraa. Rama in his She'elev ve-Teshuvot 10 writes that although benet noach and benet yisrael have seven mitzvoth in common, there is an essential difference in our relationships to them. "Benet noach love ha-tesha. Benet yisrael love ha-halakla. The existence of benet noach is based on physical and worldly matters. Therefore, his obligation is clearly sufficient natural and societal standards. Nevertheless, the life of a ben yisrael is meant to rise beyond the confines of nature, time, and the senses. Therefore, he is governed by laws that are unique to a Torah lifestyle. Ruth, in chapter seven of Tiferet Yisrael, writes that the number seven symbolizes "olam ha-avoda" the natural world as it was completed in the seven days of creation. The seven mitzvoth of benet noach parallel this idea functioning only as a protection of the natural human order. In contrast, benet yisrael are given a multitude of mitzvoth because they are connected with the preservation of the natural but also with the elevation of the spiritual. The natural instinct within man is to survive. It is not within human nature for one to sacrifice himself "al kidusha ha-shem." For this reason, benet noach, who are limited to a natural-existence, are not expected to perform such an act. Nevertheless, benet yisrael are expected to achieve a supernatural commitment to Torah and mitzvot. This definition of mitzvot benet noach as exclusively presumptive or protective laws can even be applied to the opinion of Ramban that benet noach are obligated to die "al kiddush ha-shem be-hefreiza." Although Ramban's ruling seems to give a more equal status to benet noach and benet yisrael, this is not the case, as the benet noach's mitzvah of kidush ha-shem is connected to their supernatural and kedusha level of existence and therefore they must die even be-tzinah for the cardinal sites. Nevertheless, benet noach's obligation to die in public is not connected to this lofty spiritual level, but rather only to the negative commandment of "so techalelu." The only reason benet noach are obligated in martyrdom is to prevent causing chiddish ha-Shem. This idea corresponds to the negative character of mitzvot benet noach in general. Tractate Sanhedrin teaches that all of the Noahide laws are considered negative commands (sheve va-al ta'as), as opposed to the 248 positive and active mitzvoth of benet yisrael. To varying degrees, both of these Halakhic possibilities—one which totally exempts benet noach from dying al kiddush ha-shem and one which does require such action in a public forum-address these fundamental distinctions between the nature of mitzvot benet noach and mitzvot benet yisrael. These distinctions also reflect the difference in the intrinsic spiritual level of benet Noach and benet Yisrael.

-Continued from page 6

Strolling in Pardei

the argument as to whether the sukkah in Deuteronomy 16 refer to sukkah mamon or the annanim ha-kovod. The gemara's conclusion seems to lean toward the position of R. Akiva who argues that the passage means sukkah mamon. The Gaon proves from the Talmud Yerushalmi that the clear understanding of the Basit is not consistent with R. Akiva's opinion and the passage refers to the annanim ha-kovod. Based on the gemara, it seems that the question of "sukkah mamon or annanim ha-kovod" does not lead to any practical Halakhic distinction. In this regard, the reason that the Rambam does not rule on the issue. The strong interconnection between Halakla and Pardei for the Gaon might explain why the devarim are important to discuss in the framework of a traditional Halakhic context. If Pardei is often interconnected with Halakla and is viewed with the same authority, then each of its conclusions must stand up to the same rigorous scrutiny. The idea that the sukkah commemorates the annanim ha-kovod of the Sinai desert is very important to the Gaon, to the extent it might even determine the date of the obligation of the mitzva.

In his commentary on Shir ha-Shirim, the Gaon questions why we dwell in sukka on the fifteenth of Tishrei, if the annanim ha-kovod appeared for the first time in Nissan. The Gaon responds that mitzva sukka does not commemorate the first appearance of the annanim ha-kovod. Rather, it celebrates the return of the annanim ha-kovod to the camp. The clouds disappeared when the two camps of Israel aligned with the golden calf and only returned when they began to build the Mishkan. The Gaon, through a calculation, argues that the building of the Mishkan began on the fifteenth. Moshe came down from Eرم Kuppah with the second set of tablets. On the eleventh of Tishrei, Moshe commanded the Jews to build the Mishkan. On the twelfth and thirteenth they brought donations for the building and on the fourteenth Moshe commanded them to cease construction. Therefore, dayach sukkah is only on the fifteenth, thus restoring the annanim ha-kovod.

Gushmuyav and Hashagagcha

In his book, Zeman Simchatenu, based upon the thought of the Gaon, R. Cohen discusses the Gaon's symbolic understanding of the sukkah. A similar yet distinctive notion is expressed in the Gaon's commentary on Jonah. The sukkah functions, R. Cohen writes, to demonstrate that ve yisrael, unlike the other nations, is supervised directly by God's providence.

The world's course generally follows the path set by the constellations. One of the primary stars which determines destiny is the sun. It is for this reason that Halakla regards the sun as the "ohana of the human race. The Gaon writes "All richness and good on this world comes from the sun." The sukkah emphasizes the rejection of this materialism and the acceptance of Torah. The Gaon derives this notion from the passage in Deut. 16,13, which the gemara (Sukka 2a) employs to determine the nature of the roof of the sukkah. The passage explains that the holiday of Sukkot is celebrated when one gathers one's grain from the field. The gemara writes that the passage teaches us that the undesirable remains of the harvest should be used for the Sukkot. It is these scrubs, says the Gaon, that are grafted in its use for the Sukkah. For the Gaon, the Halakhic requirement of "green trees" (objects grown from ground) is only as important as the Talmud, it is the conscious choice of the passage in order to illustrate that the Sukkah relfect the fate of the world and accepts only its scrubs. The Gaon claims that this should be a model for our approach to literature. For example, Shemini Atzeret: Chazir Lashem V'chatzi Lochem When discussing Shemini Atzeret, the scripture is ambiguous about the nature of the holiday. In regard to the atzeret of Pesach in Deut. 16,8, the Torah designates it as "atzeret for Hashem, your God." In Numbers 29,35, the atzeret of Sukkot is described as "a day for thee." The gemara (PAS 68b and BSEIT 15b) explains that both passages are the same according to the drasha of R, Yehoshua and teach that one half of the day is for God and the other half for yourselves. In Kol Eliahu, the Gaon quotes as explained even derachim and the Halakhic implications appear with the aid of gemara, the prime method used in the world of revere. Half of the numeric value of the word "da-lohim" is 28 and half the numeric value of the word "de-lohim" is 45. The sum of these half values is 73, the geometry of Yom Terubah. In this case, the Gaon does not simply use Pardei to elucidate the Halakhic explanation of the scripture. In his commentary on Yeshayah, the Gaon inquires why the Torah refers to Shemini Atzeret in contradictory tones. The Gaon explains that the scriptural language is varied in order to highlight different Kabalistic notions which are expressed by Pesach and Sukkot. The Gaon notes that the seven days of Sukkot symbolically descend through the seven heavenly states of the rukia, and Shemini Atzeret corresponds to the eighth level which is the earth. Therefore, on a purely kaballistic level, it should be celebrated as a day for ourselves, since the land was given to man (Psalms 115:16). However, in the case of Pesach, the Torah calls the seventh day atzeret. It therefore corresponds to the seventh level of the rukia, representing the notion that the heavens belong to God (Psalms 24:1). Consequently, scripture sets aside this day of atzeret as being categorically devoted to God.

The Gaon does not ignore the discrepancy between the Kabalistic conclusion and the Halakhic one. He notes that Zohar on parshat teruma (139) will resolve the justification of the Halakhic conclusion in Kabalistic form. It refers to the Rabbah's general approach of the Gaon, to view Halakla and Kabala as both sharing equal significance. On a broader level, we have illustrated that the Gaon views all forms of Pardei and Halakla as one whole and which must always be consistent. They are not products of disconnected and unrelated methodologies. Rather, they represent parts of a greater composite picture of Torah.
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Divided We Stand
Mechitot Examined

by Jordana Schassel

Many of us have walked into a shul, and we couldn't help but notice the ten inch thick, ten foot high wall that separates the men and women. We have also walked into many "modem" synagogues and observed mechitzot that reach our waist, three and a half amot high. What is the source for this blatant difference of opinion regarding the measurement of mechitza? The nature of this disagreement, as seen from the primary sources, stems from a difference of opinion as to the nature and purpose of the mechitza, which in turn influences its practical application. The earliest source for the Halakha of separation is found in the Mishna in Succa 5:2, which deals with the Water Drawing ceremony that occurred in the temple during the holiday of Succot. The Mishna states, "whoever did not see the Water Drawing ceremony has never seen rejoicing in his life-time." At the conclusion of the first day of Succot, they descended to the women's section where they had made a great improvement. The Gemara in Succa 51b tells us that this "great improvement" was the creation of a balcony for the women to sit in above the men. The Gemara states that originally, the women sat inside while the men sat outside, but this led to unwanted frivolity. They tried to reverse the locations and put the men inside and the women outside, but this also led to frivolity. Finally, the balcony was established to separate the genders.

The Gemara asks, how are we allowed to "make an improvement" on the structure of the Temple? According to Chronicles 28:19, when God the Seer and Nathan the Prophet were transmitting the instructions for building the Bet ha-Mikdash, they were told, "all is in writing from the hand of the Lord" and that they must build the Temple exactly the way Hashem had instructed them. The Gemara responds that the people who made this improvement did not create this idea of a separation, rather, this concept originated in Zechariah 12:12. "And the land shall mourn, every fami-ly apart, the family of the house of David apart, and their wives apart." The Gemara derives from this passage that in the future, men will mourn apart from women. Mourning is considered a time when our evil inclination has little power over us, certainly, it is more likely to overpower us when we are engaged in rejoicing. From here, Chaza'el determined that a separation was necessary to prevent any frivolity amongst the people.

Based on the Mishna in Succa, we can infer that in the Temple, separation was a necessity. In Mishna Torah (hilchot lulav 8:12), Rambam writes, "they would erect in the Temple a raised section for women and a lower section for men so that the two groups will not mingle." Yet, in Rambam's commentary to the mishna Succa, he writes, "the women section was higher than the men's section so that the men would not look at the women." What does Rambam maintain is the reason for the mechitza? Is it to prevent mingling or is it to prevent the different sexes from seeing each other? What is the difference in the practical application of these divergent views?

During the period of Rishonim, there were few references to mechitza and the women's section of the synagogue. Surprisingly, in the Halakhic codes, the Halakha of mechitza is not specifically addressed. Perhaps we can infer the reason for this apparent oversight from a different source in Rambam. In his commentary to the Mishna Menachot 4:1, he explains why the Mishna did not discuss the requirement of tzitzit. He says that it is because the details of tzitzit were common knowledge at the time the Mishna was composed, and therefore did not need to be written down. Rambam writes, "they were known and practiced by the entire people, and not one detail was beyond anyone; therefore the redactors saw no reason to speak of them." According to Baruch Litvin in The Sanctity of the Synagogue, this rule of common knowledge can be applied to mechitza as well, thereby justifying why the Halakhic codes left this Halakha out.

There is no mention of an obligation of mechitza in the codes, yet there are discussions in Rishonim literature which imply the existence of a women's gallery as a legal requirement. R. Jacob ben Moses Moellhin, who lived in Kremos in the late fourteenth century, mentioned mechitza in Sefer Mahril 52b when discussing whether women should bring their children to shul. He concludes that if a woman must bring them to shul, she should keep them in the women's synagogue.

A later decision which implies the existence of a women's gallery as a legal requirement is given by Rabbi...
Moses Isserles in Shulchan Aruch, Yoreh De'a 265.

Other than these few references, the requirement to put up a mechitzah was not stated as law until as recently as the nineteenth century. Since then, there have been an abundance of literature discussing the particulars of the mechitzah structure. What brought about the rise of Halakhic literature on this subject? What are the particulars of this structure? In order to understand why the mechitzah became such an important issue in recent times, it is necessary to look at some historical background and the major European intellectual movement of the eighteenth and nineteenth centuries. Thus, other than the HaShkalah movement in unities in the ghettos in Europe, According to Michael Silber in “The Historical Experience of German Jewry and its Impact on Hasidah and Reform in Hungary,” the Jews had been struggling with equality within the social divisions of Hungarian society as in other countries. Thus, the HaShkalah movement was born in the 1880’s, as the Kitzur Shutchnn Arukh, who said, “it is forbidden to be machmir in the law of the mechitzah height. Therefore, the mechitzah must be tall enough that the men and women cannot see each other.” He quotes R. Shlomo Gaon, who wrote in HaShkalah that the Jewish law requires a separation between men and women during worship. He claims that the purpose of this separation is that the men not see the women, as it leads to frivolity. He is, logically, to set the required height of the mechitzah to be tall enough that the men and women cannot see each other.

Tzitz Eliezer, interposition 10:7, stresses the reason for having a partition is “so that the men will not look at the women, and therefore the mechitzah must be high enough that the men and women will not see each other.” He quotes R. Shlomo Gaon, who wrote in HaShkalah that the Jewish law requires a partition that allows the men to gaze upon the women.

R. Moshe Feinstein wrote a response regarding the required height of the mechitzah. According to Rav Moshe in Orach Chayyun Volume 1 Response 36, the mechitzah was created to preclude any possible frivolous mood. Therefore, the mechitzah need only to reach shoulder height, which is about three amot, approximately five and a half feet. The mechitzah has the same Halakhic requirement of any other dividing wall. The Mishna in Kilayim 6:1 speaks of a wall of separation that is ten tefillin high. Therefore, the mechitzah which acts only as a wall of separation in order to avoid frivolity, is required to be only ten tefillin high.

The opinions of Maharram Schick, Tzitz Eliezer and R. Shlomo Gaon developed from the view that a mechitzah must be tall enough that it will prevent men and women from seeing each other. This view is based on Rambam in his commentary on Mishna Succah, where the mechitzah was set up to prevent the men and women from seeing each other. Yet, the opinion of Rav Moshe that the mechitzah need only to be shoulder length is in keeping with Ramban in his footnotes 12 where the mechitzah was erected to prevent the mingling of the sexes. It is these two conflicting commentaries of Rambam that have inspired the two divergent views of the requirements of mechitzah. The next question is: who in Halakhah and Ramah is the dominant in the Halakhah? Rav Moshe, in response to Orach Chayyun 11, deals with the issue of the conflicting interpretations. He said that the Rambam in Orach Chayyun is the dominant model and Ramah from his commentary, see Mishna Succah, is only a commentary and not to be followed at Halakhic. Rav Moshe explains that the Rambam wrote his Mishna Torah with the aim of providing legal rulings, and therefore that is what we should follow. Furthermore, Rav Moshe proves that the mechitzah was never erected to prevent seeing. Originally in the temple, the men were on the outside and the women on the inside. Despite the fact that the men and women could see each other, nothing was said about that. Rather the reason given for the erection of a mechitzah was because the sexes were mingling.

The last remaining question is who, Maharram Schick and the others follow Rambam’s commentary on Mishna Succah? According to Rav Gershel Eliahu, author of HaTeiva Tefillah, the predominant opinion of the Rishonim of the nine teenth century was most likely based on their district of the active reformation of their time. Maharram Schick and Rav Shlomo Gaon, though they felt that the Reform movement from changing the customs in order to prevent the Reform movement from changing the Jewish Laws. Today, after the Reform movement has already been established for many years, Tzitz Eliezer accepted the point of Maharram Schick in regard to the mechitzah’s height, and ruled that the mechitzah must prevent the men from seeing the women.

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Chamnat

The Yerushalmi in Berakhot recounts an additional restriction, that one can only be machmir in his actions the Enlightenment others, namely, if he is alone. Ber’er Heven invokes this restriction regarding wearing the tefillin of Rabbenu Tam. To wear the tefillin (Orach Chayyun 34:6) in the congregation constitutes shuvarah, haughtiness, and should be avoided. In our pursuit of self perfection, we must not overlook the feelings and sensitivities of others. Trampling others is a legitimate way to raise ourselves. Instead, we should neglect our own advancement for the sake of peace.

R. Yehuda ha-Chasid in Sefer ha-Chasidim (362) takes this one step further. He deals with a case where, by being so machmir, one turns others off completely. In such a case, the point in being machmir disappears, because via the stringencies others refuse to follow anything. Again, ones own self-advancement must bow to the spiritual needs of others.

The gemara in Gitin (58a) rejects a possible new chamur for a Get, reasoning that people may say that the old Gemara, which do not employ this chamur, are invalid (migi‘a la‘at). Something, of course, changes, happens, because via the stringencies others refuse to follow anything. Again, ones own self-advancement must bow to the spiritual needs of others.

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worthless? This immediately raises numerous questions. According to this gemara, no one can do anything extra, Accepting a sin offering or share, or women fulfilling mitzvot not she-ha-zaemen gemara, are all in vain.

Maharshab in Chayunim 639, attempts to place this gemara in the proper context. He brings a Mishna in Succa (2b) which states, “It happened that they brought R. Yochanan ben Zakai a cooked dish to taste, and he said to everyone to the succa. The gemara explains that really there was no need for R. Yochanan ben Zakai to eat this in the succa since he could not be lenient in it. But didn’t he directly contradict the Yerushalmi? To resolve this quandary, Maharshab invokes the great schism. If the person is required to do something, he may imbue the object with greater import than it actually has (as heh-looven). Therefore, R. Yochanan, who would be required to eat mezonot in a succa, had the legal right to treat any food as if it were a mezonot. However, if the person has no requirement and nevertheless performs the action, such a person is called a hedva.

While Maharshab’s distinction does indeed rectify this particular situation, it does not totally alleviate the problem. After all, the Yerushalmi implies that one cannot do anything above and beyond normative requirements. Why then, do Ramban and Tosafot (Rosh Hashana 35a) argue whether women can make a berachot on a mezonot she-ha-zaemen gemara when the debate should revolve around whether they can perform the mitzvot at all (see Rashi on Rosh Hashana 35a, vs. ha-mahzipim)?

To attempt to answer this question, it becomes necessary to make another distinction between chumra regarding mitzvot, as opposed to chumra that one makes up for himself. The Ramban in Devorim 22:6, declares that mitzvot are not merely gezemer ha-melech, statutes that Hashem said we must do for no reason other than to demonstrate our loyalty to him, rather, they have reasons as well. Ramban (Shabbat 101b), says that even when a non-Jew wants to do a mitzvah in order to gain a reward, we do not restrain him (see Rashi) 1. The Yerushalmi in Nedarm 9:1 refers to taking promises and decrees, “If it is not enough what the Torah commanded you to do, that you also want to prohibit other things?” This question is brought to the fore in the Baal’s Nedarm 10a also Nazir 19a. The responsa (Bamidbar 6:11) states that when one finishes the time he swore to become a nazir, he must bring a korban chatat, a sin offering. The obvious question is why, what did the nazir do wrong? R. Elazar ha-Kapaer explains that because the nazir troubled himself by withholding wine, he is called a sinner. If so, we can certainly infer that one who restrains himself from all food and drink is a sinner (Talmud 1:1). (Tosafot explains that though he may be called a sinner, the reward he gets for the mitzva of fasting outweighs the sin.)

Ramban, however, rules like R. Elazar (Bikhot devor 3:1: see Lechem Mishna who explains Ramban as de-naftsham). “If one goes to an extreme until he does not eat meat (vegetarianism), or drink wine, or get married... or any similar thing, like the priests of idolatry or the Yerushalmi in Kiddushin (4:12) tells us that in the future a person will be held accountable for the whole worldly pleasures in which he does not partake, because through these pleasures one can praise Hashem for what He has created for us. Yalkut Torah (parshat Re’eh 891) reveals that since Hashem loves men eternity. He therefore commanded us not to trouble ourselves and will reward us for that” (Also see Horayot 10b, Tanas De-vei R. Elazar 14, and Talmi Temima Bamidbar 6:11). All this advances the philosophy that a Jew has no right to obstinately adhere to the mitzvot that the Torah prescribes except under extreme circumstances where we find clear precedence.

Common Sense

A chumra must follow what common sense dictates and common sense must be utilized when being machmor. The classic case of ignorance is the chalid toshob (Sota 21b). The gemara describes a woman who is so scrupulous in his performance of mitzvot that if he sees a woman drowning in the sea he will not save her because he may see her nakedness. While such a case is an extreme formulation, as no one would think of not saving the woman, many precious things (such as peoples feelings, as we will discuss later) simply fall by the wayside in our unrelenting quest to be as machmor as possible.

To further explore this idea, we turn to Berakhot

(11a). The gemara relates that R. Tarfon, when traveling, enderaged himself by lying down in order to recite keri ‘at shema at night, in accordance with the view of Bet Shammai, instead of relying on the view of Bet Hillel, who allows the recitation of keri ‘at shema in any position. When he related the incident to the Chachamim, they replied, “You deserved to be hurt, for not following the words of Bet Hillel.” This story is very difficult. What harm is there in being machmor for the sake of Bet Shammai? (see Tosafot Yom To on Shabbat 1:9)? Furthermore, R. Tarfon did fulfill the mitzva according to Bet Hillel, as they believe that shema can be recited in any position? R. Rosenwag suggests that R. Tarfon had every right to be machmor for the more stringent shema. But he should not have endangered himself in order to observe a chumra. By doing so, far R. Tarfon showed that to him, lying down for shema must not be just a chumra; he must believe that this is the actual Halakha. Therefore, the Chachamim said he deserved to be harmed. One must recognize the difference between what is a chumra and what is the required Halakha, and must be sensitive to the circumstances when adherence to the chumra ought to be suspended.

Being able to distinguish between a chumra and actual law played an integral part of the first sin ever committed. Rashi, (Bereshit 3:3-4) quoting Bereshit Rabba, recounts how Adam told Chava not even to touch the etz hayyot so that she would not come to eat from it (see Siifel Chachamim 3). He did not inform her that this was an extra precaution that he had devised personally thereby allowing Chava to think that this too was the word of Hashem. The snake, while trying to persuade Chava to eat from the tree, pushed her against the tree and reasoned, “Just like there was no death from touching, there will be no death from eating.” Chava listened (Rashi 3:6), “She saw the words of the snake.” Had Chava been able to distinguish the law from the chumra, she would have realized the falsehood in the words of the snake. Nevertheless, she did not. As a result, she assumed that if one part turns out to be false, she might as well disregard the whole thing.

Besides the inherent dangers to one who follows a chumra there is also the matter of how a chumra will affect relationships with others. This problem manifests itself in what the gemara calls askaros, haughtiness. A person may not show off his ability to be machmor unless he is a great man, one who we would expect to worry about every minute detail (Bava Kamma 59b). At times, the gemara finds it necessary to tell us that one may follow this particular chumra and not be considered haughty (Succa 26b).